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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: ULRICH SCHIESTL, ET AL

SERIAL NO.: 10/743,168

FILED : DECEMBER 22, 2003

FOR : INTERNAL COMBUSTION-OPERATED SETTING
TOOL

EXAMINER: Michelle Lopez GROUP: 3721

Mail Stop: Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION

This request for reconsideration is being submitted in response to the Office Action of February 9, 2005. Reconsideration of the subject application in view of the following remarks is respectfully requested. Based on the following remarks, the application is deemed to be in condition for allowance, and action to that end is respectfully requested.



I. Obviousness-type Double Patenting Rejection

The Examiner rejected claims 1-11 under the doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,722,548. It is respectfully submitted that the Terminal Disclaimer enclosed herewith overcomes the double-patent rejection.

II. Rejection Over the Prior Art

The Examiner rejected claims 1-3, 6-8 and 10-11 under 35 U.S.C. §102(b) as being anticipated by US Patent No. 5,000,128 to Veldman (Veldman). It is respectfully submitted that such claims are patentable over Veldman.

Veldman discloses a portable power tool with a metering chamber 30 having one wall formed as a diaphragm 32. The metering chamber is connected via a restricted valve 41 with the fuel source via a valve 42 with the combustion chamber. The diaphragm 32 is urged by a spring 34 towards a reduced volume position that is indicated by dotted lines 35. The metered volume is thereby not dependent on the diaphragm 32 but is "depending on the time taken for a detent catch 39 to disengage and which in turn will be determined by the extent to which to which flow through valve 41 is restricted, as well as the force of spring 34 (col. 4, lns. 50-55). As is evident from this description, the diaphragm 32 is not acting as a displacement body, as recited in claim 1 of the invention since it is not actively displacing the volume of